JOURNAL

OF THE

House of Representatives

OF THE

THIRD CALLED SESSION

OF THE

Fifty-sixth Legislature

OF THE

STATE OF TEXAS

BEGUN AND HELD AT

THE CITY OF AUSTIN

JULY 17, 1959

ADDRESS BY THE HONORABLE PRICE DANIEL, GOVERNOR

(The Senate and the House of Representatives in Joint Session).

In accordance with the provisions of House Concurrent Resolution No. 1, providing for a Joint Session of the Senate and House at 10:30 o'clock a. m., today, for the purpose of hearing the message of Honorable Price Daniel, Governor, the Honorable Senators, at 10:30 o'clock a. m., were announced at the Bar of the House, and being duly admitted, occupied seats prepared for them.

Lieutenant Governor Ben Ramsey was escorted to a seat on the Speaker's Rostrum.

Honorable Price Daniel, Governor, and party, escorted by Senators Aikin, Krueger, Kazen, Roberts and Moffett, Committee on the part of the Senate; and Messrs. Bates, Cannon, Parish, Foreman and Winston, Committee on the part of the House, were announced at the Bar of the House and being admitted, were escorted to seats on the Speaker's Rostrum.

Honorable Waggoner Carr, Speaker, called the Joint Session to order and stated that the two Houses were in Joint Session for the purpose of hearing an address by Honorable Price Daniel, Governor.

Lieutenant Governor Ben Ramsey called the Senate to order and announced a quorum of the Senate present.

Speaker Waggoner Carr called the House to order.

A quorum of the House was announced present.

Speaker Waggoner Carr presented Honorable Price Daniel, Governor of Texas, to the Joint Session.

Governor Daniel then addressed the Joint Session, as follows:

MESSAGE OF GOVERNOR PRICE DANIEL TO THE 56TH LEGISLATURE THIRD CALLED SESSION JULY 17, 1959

To the Members of The 56th Legislature, Third Called Session:

Last night I received a message, apparently intended for encouragement and consolation. It read as follows:

"If at first you don't succeed, try, try again.

Remember Governor Dan Moody had to call five special sessions to meet the financial needs of his administration."

I appreciate the thoughtfulness of that message but I hope it won't put ideas in anybody's head. I am perfectly willing for Governor Moody's record to stand. I am sure you and I share the same hope that the unfinished business of the Regular Session and two Called Sessions can be completed in less than the 30 days which are set aside for this session.

As you know, this State's financial crisis grows greater with every day of delay in the effective date of a new tax bill. If it takes the entire 30 days of this Third Called Session to enact a tax bill, the total bill must contain about $7 million in higher rates or additional taxes than would have been necessary last night —assuming that it is a 90 day bill— effective 90 days after adjournment.

On the other hand, action and adjournment of this session in 10 days or two weeks would lessen your total tax rates or items anywhere from $2.3 million to $3.5 million.

Since you have had exhaustive hearings in the Regular Session and two Called Sessions on practically every type of tax proposed, I hope that expeditious action is within the realm of possibility. Time is truly of the essence.

There are many present State services, payments, salaries and pensions which cannot be continued on schedule after August 31st unless a general appropriation bill and an adequate tax bill are enacted within 30 days from this date.

For instance, there is no time for another Special Session if 225,000 Old Age Pension checks are to be written and mailed on schedule as of September 1st. For these checks to go out on time, the new appropriation bill must be in effect on August 15th—30 days from today. This is because the Federal share of Old Age Pension checks cannot be obtained from Washington until the new State Appropriation Bill is certified, transmitted and accepted in Washington. Mr. John Winters, Director of the Department of Public Welfare, advises that he should have a minimum of two weeks to provide for the 225,000 checks scheduled to be mailed to old age pensioners on September 1.

Furthermore, unless a general appropriation bill is enacted before September 1st, there is not one State salary, pension, or payment to the public schools, colleges, or hospitals, that can be made. The present two-year appropriation bill expires at midnight August 31st. Our Constitution prohibits appropriations for a period of more than two years and therefore all salaries and functions of State government will be cut off until a new general appropriation bill is enacted.

I have been surprised to find that some members of the Legislature were led to believe, in speeches during the recent tax debates, that highway construction, farm to market roads, old age pensions, and the minimum foundation school program, as well as all other services with ear-marked funds, could continue regardless of the status of the general revenue fund, or the failure to enact a new appropriation bill. As most of you know, this simply is not true. Even ear-marked funds cannot be spent after August 31st unless there is a new appropriation bill authorizing such expenditures. A new general appropriation bill cannot become effective until the Comptroller certifies that funds will be available to pay the entire bill.

Such is the extent of the financial crisis which faces this Third Special Session. I had hoped that we would never allow delay and differences of opinion to push this State so near the brink of financial disaster or so near to comparison with the State of Michigan, which is already without funds to operate its colleges and other services.

As we meet in this precarious position, I hope and pray that personalities and differences of the past will be laid aside and that all officials and citizens alike will cooperate in seeing that we meet the responsibility which is so important to the people of our State. I pledge you my cooperation and assistance in every way possible.

There is not much more that I can say on this occasion. I have previously made detailed recommendations for a budget and a tax program. It is entirely up to the Legislature to accept or reject part or all of these recommendations. A year before this Legislature convened in January, with the assistance of an able staff, I began a study of a revenue program which would be as fair as possible to all concerned and at the same time meet the needs of a growing State. For many months I studied the tax structures of the other States, as well as our own. After this intensive study, and having the benefit of the work of the Texas Research League and the Tax Study Commission, I made recommendations to you in January and again in the First Called Session which I am still convinced are fair and reasonable. Together with some of the additions agreed upon by both Houses, they are certainly adequate. They look as good to me now as they did when I first recommended them to you over six months ago. Therefore, with one exception, I renew these recommendations and hope that some of them will be of assistance in arriving at the final decision which is yours alone to make.

The single change in my recommendations is that the severance beneficiary tax on natural gas be set at one-half cent per thousand cubic feet and that no fall-back be included on producers of gas. This flat rate per M.C.F., rather than 3%, is a higher tax on average priced gas than previously recommended. It would raise $40 million for the biennium.

I think the higher rate is fully justified in view of the fact that the producers would be relieved of liability and the entire tax would fall on natural gas pipelines and other severance beneficiaries whom I consider more responsible for the long delay and the need for additional taxes than anyone else.

Many segments of business and industry have opposed the taxes which would apply to them, but through the past six months and throughout the history of Texas I doubt that there has ever been a more powerful or more arrogant group of lobbyists than those who have declared that Texas shall not have a tax bill if it includes anything levied directly on the gas pipeline companies.

Their main cry has been "Tax the people—not the pipeline." As for me, I think pipelines ought to be taxed as much as people, and I repeat to you again that I believe a vast majority of the citizens of this State agree with this position.

I know of no reason why gas pipeline companies should hold a more safe and sacred position in the halls of this Capitol than the people who buy automobiles, cigarettes, radios, and air conditioners.

The pipeline lobby's alternative plea is—if you are not going to put all the tax on the people, you must put gas's share on the producers instead of the pipelines.

Everyone knows that natural gas should bear a heavier load of the tax burden of this State. There are very few members of either House who would want to vote for final passage of a tax bill of the magnitude now under consideration without placing part of the burden on natural gas. Even the lobbyists for the long-line pipeline companies know this. However, they plead, "Put the tax on the producers and royalty owners and not on the pipeline companies." Here we have the biggest issue which has contributed to the delay and disagreement in arriving at a tax bill.

I do not want to widen the breach which now exists between those who differ as to whether the tax should be placed on the producers or the pipelines, but I cannot pass this opportunity to once again tell you why I have recommended that the pipeline companies and other severance beneficiaries are the ones who should bear **the new tax.**

In the first place, Texas already has a 7% tax on natural gas producers and royalty owners. There are literally thousands of these producers and landowners who have been paying the production tax for many years.

On the other hand, the natural gas pipeline companies which have tied up most of the gas reserves of this State for as long as 20 years, have gone scot free of any direct taxation, except for a puny enforcement tax which raises less than $1 million per year. Their billions of dollars worth of dedicated reserves held under Texas soil constitute valuable property rights, and their occupation of obtaining production from these reserves is a valuable occupation which is not being taxed.

As early as 1951 the Texas Legislature attempted to place a tax on these pipelines—the same identical tax as was levied by the State of Louisiana. They contested the Texas law and had it declared unconstitutional, but they did not contest the Louisiana law. Texas was required to refund these companies over $31 million, but many of the same companies continued to pay this same tax to Louisiana even after it had been doubled to 1 cent per MCF. Texas and Louisiana laws were the same, but the long-line gas companies did not treat Texas and Louisiana the same. While they were making our State refund $31 million they continued to pay the same tax to Louisiana at twice the Texas rate. If they had continued to pay Texas at its lower rate, we would have collected from this tax more than $133 million during the past seven **years.**

Is this the kind of treatment that entitles these gas pipeline companies and their lobbyists to hold such a hallowed place in these halls that no tax shall be placed directly upon their business?

My predecessor in this office did not think so. Governor Shivers recommended to both the Regular Session in 1953 and to the First Called Session in 1954 the levy of the same tax which I recommend to you today. In his message on March 15, 1954, Governor Shivers said:

"To replace that unconstitutional gas-gathering tax, I recommend the enactment of a similar tax carefully revised to eliminate legal pitfalls, in the amount of one-half cent per thousand cubic feet...

"This new gas-gathering tax will be presented for your study in a form prepared and approved by some of the best legal minds in the State of Texas. They think it is constitutional, and so do I."

The bill which I have recommended was taken from the draft referred to by my predecessor and from a draft introduced in the Senate by Senator Hardeman and revised in light of more recent court decisions. A chief objection raised by the pipeline companies is that the tax is unconstitutional. If that be true, why on earth have they fought us so hard for these past six months? The truth is that they fear that the tax is constitutional and simply do not want to pay it. The Attorney General of Texas has held the bill to be constitutional, and that is the highest authority to guide our consideration until after the bill is enacted.

For six months the gas pipeline companies have also hidden behind the skirts of a few Texas chemical, aluminum, and other industries which have dedicated gas reserves and are, therefore, severance beneficiaries. They have intimated that this tax would keep them from expanding or make them locate their new plants in other States. Never has a Legislature been more completely deceived. A one-half cent per thousand cubic feet on natural gas would still leave this Texas fuel so much cheaper for local industries that no other State except New Mexico could even compare with us.

Some of these concerns named Louisiana, Alabama, and South Dakota as States in which they might locate. It is interesting to note that the average price paid for industrial gas in Texas in 1957 was 12.1¢ per MCF. In Louisiana it was 14.8¢; in Alabama, 25.5¢; and in South Dakota, 28.9¢. I have attached to this message and will have copies available for all of you a chart prepared by the United States Bureau of Mines showing the average cost of gas for industrial use in every State in the Union. A mere reading of this report will satisfy you that a one-half cent per thousand cubic feet on the industries which hold dedicated gas reserves would still leave them with the cheapest gas in the Nation, except for New Mexico whose volume and competition are not even comparable.

The main thing is that industrial users here in Texas have only a small percentage of the natural gas reserves of this State under dedicated contract and would pay only a small percentage of this tax. The natural gas pipeline companies have over 80% of Texas gas reserves tied up under contract and are now transporting over 53% of our total marketed production into other States which collect from three to nine times as much on this gas as we collect here in Texas.

Should we add more tax on Texas producers and royalty owners, or should it be levied on the pipeline companies which will collect over half of it from other States?

If the people have elected to this Legislature a majority in either House who believe that this portion of our new taxes should be levied on Texas consumers and on Texas producers and royalty owners instead of the gas pipeline companies, I shall respect, though disagree, with the majority view.

In that event, the necessary taxes must be raised from Texas people instead of interstate pipelines.

It was only during the last session when both Houses of the Legislature voted against the severance beneficiary tax that I reluctantly said that an alternative method should be accepted in order that the State government might continue to function. I did not for one minute abandon my determination that the gas pipeline tax should be enacted at a future date. Another opportunity is now before us. I solicit your consideration and hope that it will be accepted. I shall continue my fight for this tax at every opportunity until it is enacted. The will of the people of Texas on this subject will not be defeated forever.

I further call to your attention and urge your consideration of the Abandoned Property-Escheat Bill which, if enacted, would bring in a minimum of $25 million during the next biennium. By merely collecting the money which now belongs to the State under the present escheat law and is being used by banks, oil companies, and other institutions, you will save the taxpayers of this State $12½ million per year. I sincerely hope that in our present financial condition you will no longer neglect or ignore this State money which it is our duty to collect and preserve as much as any other funds which belong to the State. I appeal to those who have opposed and defeated this measure in the House to revive it in your own language and at least provide for this money to be reported to the State and give the Attorney General the necessary authority to collect it through court judgments.

These recommendations merely supplement what I have heretofore presented. Whatever may be your opinion or decision, I assure you of my cooperation and will hold myself and my staff available to assist in any manner toward finally arriving at a solution which will meet the needs of our State and our people.

TABLE 11.—Industrial consumption of natural gas in the United States, 1957, by States and uses

State	Field (pumping, drilling, and other)			Carbon black			Fuel						Total industrial			Fuel used at electric utility plants [1]
	Quantity (million cubic feet)	Value (thousand dollars)	Average value (cents per M cubic feet)	Quantity (million cubic feet)	Value at point of consumption: Total (thousand dollars)	Value at point of consumption: Average (cents per M cubic feet)	Refinery fuel (million cubic feet)	Natural-gas pipeline (million cubic feet)	Other industrial fuel (million cubic feet)	Total fuel (million cubic feet)	Value (thousand dollars)	Average value (cents per M cubic feet)	Quantity (million cubic feet)	Value at point of consumption: Total (thousand dollars)	Value at point of consumption: Average (cents per M cubic feet)	
Alabama	160	17	10.6					6,949	114,020	120,969	30,912	25.5	121,129	30,029	25.5	16,685
Arizona	16	2	12.5					11,888	71,931	83,819	21,892	26.1	83,835	21,894	26.1	35,926
Arkansas	15,454	1,354	8.8				11,171	7,977	129,942	149,090	26,534	17.7	164,544	27,888	16.9	46,298
California	155,665	31,070	20.0	(2)	(2)	(2)	91,583	11,912	438,012	541,507	178,615	32.9	697,172	209,685	30.1	192,793
Colorado	13,888	1,214	8.7				1,506	1,885	97,350	100,741	23,153	22.9	114,629	24,367	21.3	39,057
Connecticut								127	7,155	7,282	5,516	75.7	7,282	5,516	75.7	2,506
Delaware, District of Columbia, and Maryland	3	1	33.3					882	15,695	16,577	11,564	69.8	16,580	11,565	69.8	2,033
Florida	34	6	17.6						35,922	35,922	8,968	25.0	35,956	8,974	25.0	11,201
Georgia								3,301	94,644	97,945	26,149	26.6	97,945	26,149	26.6	38,585
Idaho								776	8,137	8,913	2,970	33.3	8,913	2,970	33.3	
Illinois	7,507	957	12.7				8,436	11,440	212,135	232,011	76,639	33.0	239,518	77,596	32.4	53,204
Indiana	94	15	16.0				113	7,101	69,124	76,338	28,733	37.6	76,432	28,748	37.6	8,098
Iowa								7,331	78,225	85,556	25,619	29.9	85,556	25,619	29.9	43,839
Kansas	45,691	6,544	14.3	(2)	(2)	(2)	17,603	38,684	141,715	198,002	38,179	19.2	243,693	44,723	18.4	74,903
Kentucky	12,268	1,889	15.4				(3)	14,543	45,495	60,038	20,671	34.4	72,306	22,560	31.2	6,065
Louisiana	160,779	18,471	11.5	26,416	2,539	9.6	101,212	21,024	472,719	594,955	94,711	15.9	782,150	115,721	14.8	78,612
Massachusetts								619	17,430	18,049	15,876	88.0	18,049	15,876	88.0	8,333
Michigan	2,192	678	30.9				660	2,318	70,567	73,545	39,479	53.6	75,737	40,157	53.0	591
Minnesota							(3)	156	58,702	58,858	16,408	27.9	58,858	16,408	27.9	41,757
Mississippi	16,777	2,180	13.0				(3)	19,935	82,883	102,818	22,199	21.5	119,595	24,379	20.4	32,057
Missouri	706	162	22.9				(3)	6,472	100,043	106,515	29,188	27.4	107,221	29,350	27.4	27,408
Montana	3,350	263	7.9				2,324	361	19,176	21,861	4,992	22.8	25,211	5,255	20.8	2,970
Nebraska	3,567	466	13.1				(3)	6,378	53,966	60,344	16,052	26.6	63,911	16,518	25.8	22,720
Nevada									6,964	6,964	2,643	38.0	6,964	2,643	38.0	4,350
New Hampshire									283	283	455	160.7	283	455	160.7	
New Jersey								300	38,648	38,948	19,425	49.8	38,948	19,425	49.8	20,181
New Mexico	107,291	9,510	8.9	49,988	3,628	7.3	2,105	15,917	46,745	64,767	11,671	18.0	222,046	24,809	11.2	28,135
New York	425	272	64.0				10	1,284	77,408	78,702	51,269	65.1	79,127	51,541	65.1	36,982
North Carolina								1,960	12,004	13,964	5,780	41.4	13,964	5,780	41.4	
North Dakota	7,405	700	9.5				(3)	279	812	1,091	344	31.5	8,496	1,044	12.3	267
Ohio	1,299	551	42.4				4,752	6,209	176,338	187,299	91,750	48.9	188,598	92,301	48.9	3,804

(over)

Oklahoma	168,982	21,453	12.7	---	---	---	40,806	8,885	85,731	135,422	22,673	16.7	304,404	44,126	14.5	68,694
Oregon	---	---	---	---	---	---	---	189	11,561	11,750	3,986	33.9	11,750	3,986	33.9	556
Pennsylvania	1,802	864	47.9	---	---	---	22,459	12,420	170,333	205,212	102,793	50.1	207,014	103,657	50.1	7,484
Rhode Island	---	---	---	---	---	---	---	127	1,757	1,884	1,833	97.2	1,884	1,833	97.2	501
South Carolina	---	---	---	---	---	---	---	982	34,073	35,055	12,019	34.2	35,055	12,019	34.2	24,035
South Dakota	---	---	---	---	---	---	([3])	44	7,172	7,216	2,092	28.9	7,216	2,092	28.9	3,328
Tennessee	---	---	---	---	---	---	---	11,590	76,140	87,730	25,745	29.3	87,730	25,745	29.3	1,939
Texas	715,204	56,558	7.9	150,165	11,874	7.9	359,215	45,430	967,064	1,371,709	202,535	14.8	2,237,078	270,967	12.1	339,279
Utah	827	132	16.0	---	---	---	1,420	25	29,274	30,719	8,393	27.3	31,546	8,525	27.0	9,861
Virginia	25	9	36.0	---	---	---	---	2,328	18,238	20,566	9,297	45.2	20,591	9,306	45.2	852
Washington	---	---	---	---	---	---	---	165	32,959	33,124	12,336	37.2	33,124	12,336	37.2	---
West Virginia	27,301	6,476	23.7	---	---	---	909	7,007	65,834	73,750	28,037	38.0	101,051	34,513	34.2	1,270
Wisconsin	---	---	---	---	---	---	---	417	18,404	18,821	11,922	63.3	18,821	11,922	63.3	135
Wyoming	18,227	1,861	10.2	---	---	---	6,013	1,618	5,820	13,451	2,216	16.5	31,678	4,077	12.9	785
Total: 1957	[2]1,479,720	[2]162,397	11.0	[2]233,788	[2]19,319	8.3	[3]678,810	299,235	[1]4,312,037	5,290,082	1,394,233	26.4	7,003,590	1,575,949	22.5	1,338,079
1956	1,420,550	149,162	10.5	242,598	18,628	7.7	679,343	295,972	4,023,980	4,999,295	1,265,406	25.3	6,662,443	1,433,196	21.5	1,239,311

[1] Federal Power Commission. Preliminary. Includes gas other than natural impossible to segregate and therefore shown separately.
[2] 7,219 million cubic feet and $1,278 in value included in field use to avoid disclosure; included in total carbon black.
[3] 6,513 million cubic feet included in other industrial to avoid disclosure; included in total refinery fuel; also includes gas used by portland-cement industry.